



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on November 9, 2009

Date of Meeting: May 12, 2009

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:40 p.m., on Tuesday, May 12, 2009, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup.

Deborah Rainone, Chief Deputy City Clerk, announced Council Member Uhlich was unable to be present for the evening's meeting, but she would be participating by telephone. This was allowable under the Mayor and Council Rules and Regulations. She stated Council Member Uhlich advised the City Clerk of her location, and assured her that no one else was present with her. Council Member Uhlich could vote on all matters in the same way as those members physically present as long as she participated in the discussions. On the evening's agenda, all votes would be done by roll call rather than voice vote.

Upon roll call, those present and absent were:

Present:

Regina Romero	Vice Mayor, Council Member Ward 1
Rodney Glassman	Council Member Ward 2
Karin Uhlich	Council Member Ward 3 (electronic attendance)
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Nina J. Trasoff	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused: None

Staff Members Present:

Mike Letcher	City Manager
Michael Rankin	City Attorney
Deborah Rainone	Chief Deputy City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Reverend Dr. William H. Knight, Water of Life Metropolitan Community Church, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations:

- a. Mayor Walkup proclaimed May 17 to May 23, 2009, to be "Public Works Week." Jim Glock, Director of Transportation, accepted the proclamation.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 252, dated May 12, 2009, was received into and made part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Vice Mayor Romero invited the public to a Town Hall and Cafécito regarding the City's budget on May 27, 2009, at the City of Tucson Community Resources Sentinal building. She stated this was the second of a series of Town Halls. She said she hoped to have Mike Letcher, City Manager, Marie Nemerguth, Budget and Internal Audit Director and Roberto Villaseñor, Chief of Police in attendance.
- b. Council Member Glassman announced he was performing with the Arizona Symphonic Winds at Udall Park on May 16, 2009, and with the Tucson Pops at the Reid Park Outdoor Amphitheater on May 17, 2009. He invited the public to attend.

Council Member Glassman announced May 10 to May 16, 2009 was "National Police Week." He expressed his gratitude to the men and women of the Tucson Police Department and encouraged the public, while out in the community, to take a few minutes to "Thank a Cop" for all they and their families do for the community.

- c. Council Member Uhlich congratulated the girls from Jacobs and Ochoa Parks who participate on the Heritage Alliance U14 Soccer Team for winning the Arizona Open Cup. She stated they would compete at the National Championship and would be fundraising to pay for their expenses. For more information, the Ward 3 office or the Tucson Mountain Soccer Club should be contacted.
- d. Council Member Leal announced the Casa Maria Free Kitchen was hosting a free screening of the movie "Pancho Goes to College" on May 15, 2009. The movie was directed and produced by local Tucsonan, Rubén Reyes. He said refreshments would be served and encouraged the public to attend.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 253, dated May 12, 2009, was received into and made part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Mike Letcher, City Manager, thanked the staff from the City Clerk's office and the City Attorney's office for participating and organizing the budget meeting held with appointed citizen committee and commission members. He said this meeting was the first of its kind and was expected to continue them over the year and in the future.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 254, dated May 12, 2009, was received into and made part of the record. He asked the Chief Deputy City Clerk to read the Liquor License Agenda.

b. Liquor License Applications

New License(s)

1. Amici Ristorante Italiano, Ward 3
2970 N. Campbell Ave.
Applicant: Kori Lee Fitch
Series 12, City 25-09
Action must be taken by: May 31, 2009

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a new license application, "In all proceedings before the governing body of a city...the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license". (A.R.S. Section 4-201)

c. Special Event(s)

1. Tucson's Young Professionals, Inc., Ward 1
140 N. Main Ave.
Applicant: Megan Leslee Courtney
City T38-09
Date of Event: June 5, 2009
(To promote community event in downtown Tucson)

Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change/Acquisition of Control/Restructure

NOTE: There are no agent change(s) scheduled for this meeting.

It was moved by Council Member Uhlich, duly seconded, to forward liquor license applications 5b1 and 5c1 to the Arizona State Liquor Board with a recommendation for approval.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

The motion to forward liquor license applications 5b1 and 5c1 to the Arizona State Liquor Board with a recommendation for approval was declared passed by a roll call vote of 7 to 0.

6. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. Speakers were limited to three-minute presentations.

- a. Jean Hoffman, Nine Queens Executive Director, stated Nine Queens was a non-profit organization that offered benefits to the community such as free education programs to at-risk youth, school and families, and sponsored free chess events in the downtown area.
- b. Ken Scoville thanked the Mayor and Council and staff from the Department of Urban, Planning, and Design for their efforts on the historic Miracle Mile tour and open house project.
- c. Stephen Young, Tucson Housing Trust Fund Chairman, spoke about his concern regarding the elimination of funds from the Tucson Housing Trust Fund's budget allocation.
- d. Joe Sweeney spoke about the impact of illegal immigration to the community and encouraged the Mayor and Council to request available 287G funding.
- e. Ruth Becker spoke about land use issues and her concern regarding the dwindling attendance of the *Land Use Code* Subcommittee and the important part the subcommittee played in revising the *Land Use Code*.

- f. John O'Dowd spoke in support of keeping public swimming pools open during the summer months or until schools were back in session.
- g. Bob Lebsack spoke in opposition of the two-percent rental tax.

7. CONSENT AGENDA – ITEMS A THROUGH E

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda were received into and made part of the record. He asked the Chief Deputy City Clerk to read the Consent Agenda.

A. APPROVAL OF MINUTES

- 1. Report from City Manager MAY12-09-256 CITY-WIDE
- 2. Approval of minutes for the regular meeting of the Mayor and Council held on March 3, 2009.

B. FINAL PLAT: (S08-001) NEC SPEEDWAY BOULEVARD AND KOLB ROAD, LOTS 1 TO 5

- 1. Report from City Manager MAY12-09-257 WARD 2
- 2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

C. FINAL PLAT: (S09-018) LIMBERLOST COMMONS, (RCP), LOTS 1 TO 20 AND COMMON AREAS "A" AND "B"

- 1. Report from City Manager MAY12-09-258 WARD 3
- 2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

D. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY AND TUCSON UNIFIED SCHOOL DISTRICT FOR THE CONSTRUCTION AND JOINT USE OF FACILITIES AT MENLO PARK ELEMENTARY SCHOOL

- 1. Report from City Manager MAY12-09-259 WARD 1

2. Resolution No. 21281 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson, Pima County and Tucson Unified School District No. 1 authorizing construction and joint use of soccer field facilities located at Menlo Park Elementary School; and declaring an emergency
- E. ASSURANCE AGREEMENT AND FINAL PLAT: (S09-017) STONE CROSSING, (RCP), 40 CONDOMINIUM UNITS, COMMON AREA “A” TO “E”
1. Report from City Manager MAY12-09-263 WARD 3
 2. Resolution No. 21284 relating to Planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements and approving the final plat in Case No. S09-017 for Stone Crossing, a Residential Cluster Project, 40 Condominium Units and Common Areas “A” through “E”; and declaring an emergency.
 3. Staff recommends that the Mayor and Council approve the assurance agreement and the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

Deborah Rainone, Chief Deputy City Clerk, announced Item E would be continued to the meeting of May 19, 2009, at the request of Council Member Uhlich.

It was moved by Council Member Scott, duly seconded, that Consent Agenda Items A through D, with the exception of Item E, which was continued to the meeting of May 19, 2009, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members, Glassman, Uhlich, Scott, Leal, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

Consent Agenda Items A through D, with the exception of item E, which was continued to the meeting May 19, 2009, were declared passed and adopted by a roll call vote of 7 to 0.

8. PUBLIC HEARING: HOMELESS PREVENTION AND RAPID RE-HOUSING PROGRAM

Mayor Walkup announced City Manager's communication number 264, dated May 12, 2009, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on the proposed Amendment to the Consolidated 2009 Action Plan for the Homeless Prevention and Rapid Re-Housing Program. He said the public hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations.

Mayor Walkup asked if there was anyone in the audience wishing to be heard on this item.

There were no speakers.

It was moved by Council Member Trasoff, duly seconded, to close the public hearing.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

The motion to close the public hearing was passed by a roll call vote of 7 to 0.

Mayor Walkup asked the Chief Deputy City Clerk to read Resolution 21282 by number and title only.

Deborah Rainone, Chief Deputy City Clerk, announced there was a clerical correction to Resolution 21282. On line four, the word direction should be directing, and she would read the resolution with the correction.

Resolution No. 21282 relating to public housing; approving an amendment to the Community Development Annual Action Plan for Fiscal Year 2009 to include the Homeless Prevention and Rapid Re-Housing Program (HRRP); authorizing and directing submittal of the amendment to the United States Department of Housing and Urban Development (HUD); and declaring an emergency.

It was moved by Council Member Leal, duly seconded, to pass and adopt Resolution 21282.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

Resolution 21282 was declared passed and adopted by a roll call vote of 7 to 0.

9. PUBLIC HEARING: PANTANO ROAD, SPEEDWAY BOULEVARD TO 22ND STREET DISTRICT LIGHTING IMPROVEMENT

Mayor Walkup announced City Manager's communication number 260, dated May 12, 2009, was received into and made part of the record. He announced this was the time and place legally advertised for a public hearing on the Pantano Road, Speedway Boulevard to 22nd Street District Lighting Improvement. The public hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations.

Mayor Walkup asked if there was anyone in the audience wishing to be heard on this item.

There were no speakers.

It was moved by Council Member Trasoff, duly seconded, to close the public hearing.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

The motion to close the public hearing was passed by a roll call vote of 7 to 0.

Mayor Walkup asked the Chief Deputy City Clerk to read Resolution 21280 by number and title only.

Resolution No. 21280 relating to Transportation; approving assessment and previous proceedings for the “Pantano Road, Speedway Boulevard to 22nd Street District Lighting Improvement,” in the City of Tucson, Arizona.

It was moved by Council Glassman, duly seconded, to pass and adopt Resolution 21280.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

Resolution 21280 was declared passed and adopted by a roll call vote of 7 to 0.

10. PUBLIC HEARING: (SE-08-49) AT&T AT EL ENCANTO – BROADWAY BOULEVARD, C-1 ZONING, SPECIAL EXCEPTION LAND USE, CITY MANAGER’S REPORT, DIRECT ORDINANCE ADOPTION

Mayor Walkup announced City Manager’s communication number 261, dated May 12, 2009, and the report from the Zoning Examiner were received into and made part of the record. He announced this was the time and place legally advertised for a public hearing for a Special Exemption Land Use request for property located on the Broadway Boulevard west of Country Club Road. The Zoning Examiner recommends approval subject to certain conditions. He asked if the applicant was present and if there were any comments to be made.

There were no comments by the applicant.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations.

Jay Zucker, stated he was the property owner of El Encanto LLC. He said the three-story office building was twenty-two thousand square feet, just under two-acres of real estate, located on Broadway Boulevard. The building was originally acquired in the mid-nineties to move the TeleMundo Spanish television station into that location. Mr. Zucker said, at that time, he came before the Mayor and Council to request special communications use and received authorization to put satellite dishes, microwave dishes and a tower on top of the roof. Since then, they have continued to operate as a Communication Class A office building.

Mr. Zucker stated his cell phone would not work in his building and everybody that passed the building on Broadway and Country Club, also dropped cell phone calls. This motivated them to look for technical improvements in the neighborhood. He said they had researched the problem and found there was a major void in cell phone service in the middle of Tucson. Formerly being in the communications industries, he said this encouraged them to do more research. They found there was an opportunity to correct the situation in a passive mode.

Mr. Zucker announced he personally objected to cell towers because of how they made the skyline look, and being a native Tucsonan, did not like the affect they had on the desert landscape. He said technology has brought a new wave of communication sites, such as using saguaros and converting them into cellular towers. He said, in this case, they had twenty-three tall palm trees around the building and in conjunction with the applicant, as a cellular enhancement, they were proposing to create a palm tree that one would not know it was a palm tree unless they tried to trim it. He said they were asking for the Mayor and Council's support and approval for the continued use of the communication site and were not planning to install additional satellite dishes, microwave dishes, or towers on the roof. He said their objective was to plant a palm tree to serve as cellular support.

John O'Dowd stated he was a resident in the Sam Hughes Neighborhood, which was historically registered, and that he had been active in the neighborhood for a number of years. He said his grandchildren attended the preschool across Tenth Street near the location of the proposed communication tower and was concerned regarding certain data he read from a local newspaper indicating the possibility of harm from microwaves that emitted from the towers. He stated he was motivated to speak on this issue because of information he received from Libby Kelly, who would also speak later about the concerns of telecommunications.

Mr. O'Dowd said he attended the Zoning Examiner's meeting to see if he could find out how the ordinance worked. He said he did a lot of administrative law work and was interested on how regulation worked or did not work in the area. He commented it really did not seem to work at all. He stated Crown Industries was the applicant. Originally the applicant was AT&T, but under the Telecommunications Act, exceptions and certain limits were put on local authorities in regulating cell towers for carriers, and AT&T was a carrier.

Mr. O'Dowd said Crown Industries was, what he called, a pole-setter. Pole setters leave poles at locations and then lease them out to carriers. He said the diagram showed four antennas on the poll that apparently serve AT&T. Mr. O'Dowd said the AT&T poles were pointed in different directions and not towards the Sam Hughes Neighborhood where the company said there was a gap in service. Obviously, they were not concentrating on the need of that area. He commented that gap in service, needed to be shown.

Mr. O'Dowd said he conducted an informal survey through a list serve and few people said AT&T did not work for them. From what he observed, there were not many complaints. He said the ordinance should serve the common good; not the just the good of the telecommunications industry or the owner of the property, who obviously would be compensated for allowing the towers on their property.

Mr. O'Dowd stated, speaking from an aesthetic point of view, a major flaw in the administrative regulation was the fact that the ordinance tried to protect major gateways such as Broadway Boulevard. He said according to the ordinance, the City should not have any towers within four hundred feet of a major gateway; Broadway Boulevard was, a major gateway, unless there was no alternative. He said the City report did not show there were any alternatives presented. He said, if indeed there were gaps in the north part of his neighborhood, then a smaller tower could have served that purpose rather than a seventy-foot tower. It was obvious to him that the telecommunication industry and Crown Industries were making a nice profit out of planting the polls and later leasing the antennas to people who needed them.

Mr. O'Dowd said he observed a few other problems with the data contained in the ordinance. He said he asked for copies of the data on file used to support the gap in service. He said there was nothing in the file or information that showed how many customers complained about not receiving service in the area. He said this was proprietary data and could not be obtained nor could any data about safety be obtained. Mr. O'Dowd stated the Federal Communications Commission (FCC) had a lax of standards and the City too did not require anything to satisfy certain standards.

Mr. O'Dowd commented he was unable to get a realtor to come with him to the meeting, but said people in neighborhood residential areas did not want cell towers within a close proximity. Although cell towers would be in an industrial or commercial area, they would still be located next to residential areas and impact property values.

Mr. O'Dowd said he read that Pima County was taking a second look at their ordinance to review the need for cell towers, safety standards, and the impact on property values. He said if Pima County was reviewing their ordinance, he could not understand why the City could not do the same, especially where there appeared to be problems. He commented that studies in other progressive countries show those governments take a lot more action to protect their citizens from possible hazards of electromagnetic waves from these type of cell towers. He asked the Mayor and Council to take a second look at the City's ordinance.

Elizabeth "Libby" Kelly said she was a resident of the City of Tucson and Executive Director of the International Commission for Electromagnetic Safety based out of Italy. She stated the commission, composed of concerned scientists, had done research for many years on the affects of electromagnetic radiation on biological and health effects to man, wildlife, trees, and plants. She said they had a fund of knowledge and were concerned about the exposure conditions that had been created over the last decade from the proliferating antennas, towers, transmitters, and cellular phones in the world.

Ms. Kelly said she could not argue with the fact that major transformation had created economic and social benefits; however, she was concerned health issues were not adequately addressed. She said she was before the Mayor and Council because she became aware of a major installation being planned for the corner of Country Club and Broadway Boulevard and shared the same concerns as Mr. O'Dowd.

Ms. Kelly said her concern was not that the owner would benefit from this transmission or the fact that the palm tree would not provide any habitat for wildlife. Her concern was for the children attending the preschool, which was about five-hundred feet away from the building. She stated they may be affected because the Federal Communications Commission (FCC) did not govern long-term chronic exposure or low level exposure. FCC standards only applied to acute short-term thirty-minute exposures.

Ms. Kelly stated, ten years ago, she was part of a group that challenged the FCC in court. Since then, she had learned a lot about those standards. She said Pima County was considering revising their wireless site ordinance; reviewing all the things they could lawfully look at under the Federal Telecommunications Act, such as: aesthetics, property, value and zoning. She encouraged the Mayor and Council to do the same and to cooperate with the County and anyone else to hold a public forum to examine the science behind what she had spoken about.

Ms. Kelly shared that the European Parliament adopted a resolution on April 2, 2009, expressing their deep concerns about exposure conditions, especially to children, pregnant women, people who were electrically hyper-sensitive, and the proliferation of all the towers. She stated the French Government responded by saying they would hold a national investigation into this science because there were so many people in Europe that were concerned. She said eighty percent of the Parliament, representing twenty-six of their states, voted the bill through. Ms. Kelly said she would distribute her business cards to City staff in case they wanted more information. She said countries outside of the United States were responding, showing their concern, and asking for more information.

Ms. Kelly said she knew there was a different set of circumstances in our Country, but all she could do was to speak up when new towers were being considered in places of vulnerability.

Mayor Walkup asked for a motion to close the public hearing.

It was moved by Council Member Trasoff, duly seconded, to close the public hearing.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

The motion to close the public hearing was passed by a roll call vote of 7 to 0.

Council Member Trasoff stated before closing the public hearing, she should have asked Steve Olson, Crown Communications, if he had any comments. She said she had a couple of questions for him, but before asking that he come forward, she asked for clarification from the City Attorney. She stated it was her understanding, under the Federal Telecommunication (FTC) Regulations, that they were not allowed to consider health issues.

Michael Rankin, City Attorney, stated Council Member Trasoff was correct. The Federal Telecommunication Act pre-empted or prohibited state and local governments from regulating on the basis of radio frequency admissions, and the environmental, and health related concerns they might present. He said it was not in the Mayor and Council's purview or discretion.

Council Member Trasoff thanked Mr. Rankin and asked Mr. Olson how AT&T determined when a new site was needed.

Steve Olsen, Crown Communications, stated data was collected and evaluated by the Radio Frequency (RF) engineers that monitor and design the system for each of the different carriers. Each carrier had their own set of RF engineers. Data was then presented in the form of coverage maps that showed what the existing coverage was for AT&T in the specific area of Broadway and Country Club. He said the maps were simple but graphically illustrated where coverage gaps were located. The maps also showed what the predicted coverage would be once the site was installed. He said this was one way the data was presented. He said another way data was gathered was through customer service calls from people complaining their phones were not working, calls were being dropped, or they received busy signals. He explained that the system interrogated itself and knew when calls were blocked or dropped; and the data would be compiled and put together, so when funding became available, decisions could be made to determine where the priorities were to improve the coverage for the network.

Council Member Trasoff said although health issues could not be discussed, one of the concerns raised at the hearing was a higher power needed for transmissions for the various types of service. She asked Mr. Olson if his plan included the type of towers that needed the higher power, or was the service just going to be for cell phones, text messages, and etc.

Mr. Olson stated power output for sites was regulated by the FCC, so there was not a high power option for the towers. He said the towers were low powered sites, both by design and regulation, and the sites provided a full suite of services that carriers typically deployed for cell phones, text messaging, internet access, e-mail, instant messaging, and those types of services.

Council Member Trasoff asked Mr. Olson if there was anything else he wanted to add.

Mr. Olson stated he felt they did a good job of selecting an appropriate location for the site and as mentioned by Mr. Zucker, the location was a three story building with twenty-three existing, tall palm trees on the site and none of the other commercial locations in the area seemed as appropriate, because the parcels were too small.

Council Member Trasoff stated this issue was challenging and closely heard and she appreciated what both Ms. Kelly and Mr. O'Dowd shared with the Mayor and Council regarding their concerns. However, she said the Mayor and Council could not consider the health issues. She stated regarding aesthetics, she went out to look at the property and the palm trees were extremely tall in that area. The fake palm trees were not exactly perfect, but because they were about fifty or seventy feet in the air, they would not be noticed as much.

Council Member Trasoff asked Mr. Rankin to keep the Mayor and Council informed of the research and possible considerations in terms of coverage made by Pima County for future reference.

Council Member Trasoff said she also spoke to Mr. Zucker about his concerns. She said, coincidentally, she went to shop at a store across the street from the tower location and mentioned to the owner that the item regarding the communication towers was on the agenda. She said the store owner replied, "thank goodness," because he said he could not receive cell phone reception in his store as it was in an area where many people had dropped calls.

It was moved by Council Member Trasoff, duly seconded, to approve the request as recommended by the Zoning Examiner and pass and adopt Ordinance 10666.

Mayor Walkup asked if there was any discussion. Hearing none, he asked the Chief Deputy City Clerk to read Ordinance 10666 by number and title only.

Ordinance No. 10666 relating to zoning; approving a special exception land use with conditions, a wireless communication tower and antennas disguised as an artificial palm tree, 70 feet in height, in the C-1 zone, located on Broadway Boulevard, approximately 520 feet west of Country Club Road, in case SE-08-49, AT&T at El Encanto – Broadway Boulevard; and setting an effective date.

Mayor Walkup asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

Ordinance 10666 was declared passed and adopted by a roll call vote of 7 to 0.

11. PUBLIC HEARING: (C9-08-11) RARIC PARTNERSHIP – 20TH STREET, R-2 TO I-1, CITY MANAGER’S REPORT

Mayor Walkup announced City Manager’s communication number 262, dated May 12, 2009, and the report from the Zoning Examiner, was received into and made part of the record. He announced this was the time and place legally advertised for a public hearing on a request to rezone a site located on the northwest corner of Twentieth Street and Fremont Avenue. He stated the Zoning Examiner recommends denial of the rezoning, however staff recommends the case be remanded back to the Zoning Examiner to seek additional information. He asked if the applicant was present and if there were any comments to be made.

Bob Gugino, representing the applicant, said he agreed with the recommendation. He said they welcomed the opportunity to return to the Zoning Examiner for another hearing to present facts that recently came into existence within the past sixty to ninety days.

Mayor Walkup opened the public hearing and announced speakers would be limited to five-minute presentations and to please come forward when their name was called.

Claire Fellows stated she lived on Fremont Avenue, a short distance away from the proposed development. She said she wanted to address the possible installation of a traffic signal at Nineteenth Street and Park Avenue. She said she was a member of the Kino/22nd Street Citizen Advisory Committee (CAC), the committee that proposed the placement of the signal at Park Avenue and Nineteenth Street. Ms. Fellows said, because of this development, she intended to withdraw her support for the placement of the traffic signal. As a CAC member, she could not and would not support the corruption of a well intended plan.

Ms Fellows said additionally, she wanted to read from a Mayor and Council Meeting Notice and Agenda dated March 3, 2003. She stated it was a rezoning request for property located five hundred feet to the north of the site on Fremont Avenue. The Zoning Examiner, as well as the City Manager, recommended that the requested C-2 zoning be denied. She stated the City Manager also recommended that a project to review and update the land use policies in the greater *South Park Area Plan* be

undertaken as part of the Planning Task Force work program when feasible, and until then, staff should closely examine all requests for land use changes in the area.

William Podolsky stated he would withdraw his request to speak in order to speak on behalf of the applicant when the time was right.

Andy Iventosch said he had a short statement to make in that the only effective deterrent to noise, air pollution, truck traffic, and accompanying truck idling, was to keep the existing zoning as residential. He said, Peter Gavin, Zoning Examiner, had already recognized the trend in their neighborhood to become more residential and Mr. Gavin's recommendation to deny the rezoning was fair. Mr. Iventosch said he concurred with Mr. Gavin and wanted to see that the zoning be kept as it was.

Max Shore stated he was against the proposal to rezone to I-1. He said Mr. Gavin had already weighed the issues at hand and determined that the proposed rezoning was, in fact, a threat to a very fragile, expanding residential community. He said since Mr. Gavin's decision, nothing had really changed. He asked the Mayor and Council why they wanted to send this back for further consideration. The evidence was examined and determined it was not in the best interest of the residents of the community.

Mr. Shore said the neighborhood was an extremely fragile community located within a triangle, bordered by South Park Avenue, Twenty-Second Street, and the railroad tracks. He stated that inside that little neighborhood, there was a huge preponderance of business. If any of the available lots were used to further business interests, it would effectively mean the end of any hope for the residential neighborhood to be able to maintain itself. He repeated saying, the neighborhood was an extremely fragile situation and any existing empty lots needed to be reserved for residences.

Mr. Shore also commented that there were apparently many letters sent to the Mayor and Council in support of the rezoning. For the most part, the overwhelming number of those letters came from businesses that were able to instruct their secretaries to send out letters in support of the rezoning. He stated the actual residents of the neighborhood were far fewer, completely out-numbered, and somewhat disorganized by comparison to the businesses. Mr. Shore said, of the people that actually lived there, he was sure that the great majority of them were against the rezoning. He said this was a similar pattern to what happened with the neighborhood association. The neighborhood was originally part of the South Park Neighborhood Association, which was actually a much larger area, but became frustrated with the business interests in Barrio Millville trying to take over their neighborhood association. They disowned them and eliminated Barrio Millville as part of the South Park Neighborhood Association. The neighborhood association that was formed to represent Barrio Millville was completely controlled by the business interests and residents did not have much say in the association. He said he wanted to make that situation clear that this was part of an on going pattern where businesses use their clout and organization to work against the interest of the residents.

Mayor Walkup asked if there was anyone wishing to be heard on this item.

Bruce Caffrey stated he lived about one hundred feet away from the proposed rezoning and did not support the rezoning of the area from R-2 to I-1. He said he felt there was a major conflict of interest. He said many of the letters of support referenced the *Greater South Park Plan* that was compiled in 1984. He stated some of the people that helped compile the *Plan* might still be involved with staff; for example, Roger Howlett, Development Services, as well as others.

Mr. Caffrey said he wanted to read some information from the *Greater South Park Plan*. He read that the goal of the *Plan* was intended to guide future development while protecting and improving existing neighborhoods. He said many of the letters of support submitted to Mr. Gavin at the Zoning Examiner's hearing on September 4, 2008, seemed to indicate the rezoning proposal was in accordance with the *Plan*.

Mr. Caffrey stated the plan was twenty-five years old. He said he was a native Tucsonan and lived in the area for sixteen years in the house he mentioned earlier. He said he had lived in the same area a lot longer in various capacities including as a student attending high school. He said he saw a multitude of changes long before Kino Boulevard was ever built. He said many of the letters of support stated the rezoning was in compliance with this *Plan*, but wanted to dispute those claims, given his personal experience in the area. The trend in the last decade and especially in the last five years in his neighborhood, specifically South Fremont, between Sixteenth Street, the railroad, and the extreme southern border of Twenty Second Street, had been a major up-swing in residential development.

Mr. Caffrey stated Mayor Walkup was a guest speaker on a program aired by KUAT called Arizona Illustrated, hosted by Bill Buckmaster on October 27, 2008. He said Mr. Buckmaster addressed Mayor Walkup regarding an article published in the Arizona Daily Star. Mr. Caffrey said he never read the article, but heard it was critical in Rio Nuevo's progress. He said Mayor Walkup responded saying his only regret was that the present condition of Rio Nuevo's progress lacked residential downtown development. Mr. Caffrey said he wanted the Mayor and Council and everyone to know, that his neighborhood represented a plethora of opportunity for the City and future generations. There was an abundance of residential vacant property in his neighborhood, and the reason why he compared his neighborhood to Rio Nuevo, was because his neighborhood had cultural significance and went back to the turn of the century. He said information was submitted stating nothing was ever developed in the plat since 1886, and commented not very many other lots in downtown Tucson could say they had never been developed since that time. Mr. Caffrey said the pristine undisturbed land in close proximity to downtown and the University of Arizona (U of A) dated back to 1886 and his neighborhood was worth protecting and preserving.

Mr. Caffrey shared something he had read from the *Rio Nuevo Plan*. He said concerns expressed during the planning process were translated into positive action by the team which resulted in four primary tenants of the *Rio Nuevo Master Plan*; to protect the neighborhoods, revere the environment, be true to Tucson's heritage, and invigorate downtown. What was desirable was new residential opportunities, an exciting mix of

cultural attraction, arts, entertainment, restaurants, retail and a pedestrian friendly environment, and abundant natural landscaping. He said what was not desirable was traffic impacts on neighborhoods, fake or intrusive design concepts, and developments that were out of character or out of scale for Tucson.

Mr. Caffrey said the *Greater South Park Plan* stated, in order to preserve the integrity of established neighborhoods of the *Plan*, it was important residential in-fill of vacant land be promoted by encouraging the location of residential development of similar density in the interior of established neighborhoods. He said his neighborhood could safely support a certain amount of industry, which already exceeded the limit and public safety was of paramount importance. He said he hoped the Mayor and Council considered these things.

Mr. Caffrey said he opposed the proposal to rezone the lots on Fremont Avenue and Twentieth Street, and was grateful for the opportunity to speak. He stated he submitted eight copies of a video to the City Clerk's Office that contained two basic parts; archival footage from 1993 of an unobstructed view of the west landscape and views from the Japanese-Friendship Park in downtown Phoenix, Arizona. He said he submitted it as an example of potential land use that celebrated and preserved nature close to downtown.

Greg Gutts stated he wanted to emphasize the idea about residential revitalization that was mentioned, eluded to and seemed to be the bulk of the objections to the rezoning as the reason why it was inappropriate to the trend that was occurring in the neighborhood. He said he was currently building a house in the neighborhood, and represented that trend. He said he could not speak for other people who were recent additions to the neighborhood, but he knew there had been several in the last five years or more. He said he wanted to remind everyone that it was an important idea and hoped the Mayor and Council considered this as an appropriate use for the three parcels.

It was moved by Council Member Trasoff, duly seconded, to close the public hearing.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

The motion to close the public hearing was passed by a roll call vote of 7 to 0.

Council Member Leal thanked all the speakers and stated there had been a long carry forward which was understandable as evidenced by comments from the various speakers. He stated his intention was to remand the item back to the Zoning Examiner. He said the neighbors had expressed frustration of being financially out-classed and not having the time to express their views. By having the item go back to the Zoning Examiner, would give the neighborhoods more time. He said secondly, the proponents and the developer had stated some additional information that needed to be brought to bear, which he felt had to happen. This area was unique and what was happening was precisely what happened in the San Antonio Neighborhood for fifteen or twenty years. He said the area plan for San Antonio was going to be industrial, much like what was reflected in this area plan. Council Member Leal said in both cases, the area plan should not arbitrarily dictate what needs to be done; it was a projection of what the future might be like and the future turned out to be somewhat different. It was a case where the map was certainly not the territory.

Council Member Leal said he thought the plan required all participants to bring their sensibilities about what was currently happening, what the project was or was not, and to see if everything made sense, given what was going on in the area, how it fit geographically, and were there possibilities for a win, win situation. He said even by the comments he had made, he knew the issues or questions posed were things, to Mr. Gavin's credit, he necessarily brought to bear on the questions and topics put before him. Council Member Leal stated he understood this was complicated, but felt everyone would do better by repeating the process another time and paying attention, at a minimum, to the issues he had raised and those brought forward during the hearing process.

It was moved by Council Member Leal, duly seconded, to remand the item back to the Zoning Examiner for a new public hearing to seek additional information.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

The motion to remand the item back to the Zoning Examiner for a new public hearing to seek additional information was passed by a roll call vote of 7 to 0.

12. MASTER DEVELOPMENT AGREEMENT: WITH GARFIELD TRAUB DEVELOPMENT ARIZONA, LLC AND THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT FOR THE SHERATON TUCSON CONVENTION CENTER HOTEL (CONTINUED FROM THE MEETING OF MAY 5, 2009)

Mayor Walkup announced City Manager's communication number 265, dated May 12, 2009, was received into and made part of the record. Mayor Walkup asked the Chief Deputy City Clerk to read Resolution 21283 by number and title only.

Resolution No. 21283 relating to Rio Nuevo; authorizing the Mayor to execute a Master Development Agreement on behalf of the City of Tucson with Garfield Traub Development and the Rio Nuevo Multipurpose Facilities District for the planning, design and construction of the Tucson Convention Hotel and improvements to the Tucson Convention Center; and declaring an emergency.

Council Member Trasoff commented that the spectacular presentation given at the last Mayor and Council meeting answered a lot of questions that many people had on a project everyone had anticipated for decades.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Resolution 21283.

Mayor Walkup asked if there was any discussion.

Council Member Uhlich stated she too was excited about seeing this center piece of downtown proceed. She said there was a piece of City financing associated with the project for the Tucson Convention Center (TCC) and the parking garage that was broadly eluded to in the materials with the potential of certificates of participation or other financing. She asked staff to walk through the extent of the financial commitment and how it would be financed prior to construction and occupancy of the hotel to ensure there was appropriate cash flow.

Greg Shelko, Rio Nuevo Director, said in response to Council Member Uhlich's question of how debt service would be made during the course of construction, when the bonds close to fund the construction of the hotel, there would be a debt reserve and capitalized interest established to carry debt service until the hotel was complete, opened and able to make the full debt service payment. He said this would be included in the initial bond issue to fund the actual construction of the project. He stated the hotel would be financed using revenue bonds from the net operating income of the hotel itself.

Mr. Shelko said there were a couple of ways to approach the financing for the parking garage. He stated it appeared that the most likely and beneficial way was by certificates of participation issued on the parking garage and felt the same could be said for the Tucson Convention Center (TCC) expansion. The TCC was presently making 3.7 million dollars in annual rent payments, which actually was a pass-through that covered debt service on the TCC itself.

Mr. Shelko said at different interest rates and terms, it appeared the amount of money would be able to amortize debt anywhere in the neighborhood of thirty to forty million dollars. He said this was more than sufficient to pay for or meet the debt service requirement on the TCC expansion and also on the balance of pre-construction expenses that would be incurred roughly mid-way through the pre-construction process. He stated they were looking at an expenditure of approximately eight million dollars in remaining bond funds from the 2008 bond issue and a need of about fifteen million dollars to get through the entire pre-construction period, the construction of a new east entrance to the convention center and ultimately to put the tower in the construction in approximately March 2010.

Mr. Shelko stated those were the financing scenarios and when he said they were not sure which financing scenario would work, he did not mean they were not sure how the project would be financed; but there were different ways to approach it. He said, within the next few months, they would work closely with their bond underwriters, financial advisers, and bond councils to discuss the best way to finance the project, that had the best economic impact for the Rio Nuevo district, the owner of the hotel and the City of Tucson, who would participate with the parking garage financing and the TCC expansion.

Mr. Shelko explained this was part of the hard work that followed the pre-development period, in addition to completing all of the design work that was necessary to move the project from its current stance to construction. He said when he referred to the pre-construction period, he meant taking the project from its current state, a one hundred percent concept design and preliminary cost estimate of what it might cost to build the project, and move it through the schematic design, the design development, produce construction documents, and get the project entitled for construction in the early part of 2010.

Council Member Uhlich thanked Mr. Shelko and stated the Mayor and Council was excited to remain updated regularly on the progress of the project and looked forward to its fruition.

Council Member Leal stated when the item was presented to the Mayor and Council previously, the potential of the empowerment zone and/or the enterprise zone with the State, at least with the employment creating a resource of the project of some two and a half to three and a half million. Council Member Leal said, at the time, he had lost track that there might also be some tax benefits regarding equipment and property and, to Mr. Shelko's credit, seemed to be knowledgeable in that area. He said if it had not already been done, the need to find someone to help at this juncture to determine the tax benefits, either through property or employment, that were publicly generated revenues that would go back to the private side of this deal. He stated this needed to be determined and if it were to bear fruit, the City could soften the amount they would otherwise need to put in and the deal would remain whole and uncompromised, allowing the City to move forward towards the next step.

Council Member Leal asked Mike Letcher, City Manager and/or Mr. Shelko if an effort was made to try and secure some talent, to help the City.

Mr. Shelko stated he thought that was part of our work that needed to be accomplished with the bond underwriters and financial team. He said the trick would be with the hotel in that the enterprise zone and the empowerment zone were tax credits that would inert to the benefit of a tax paying entity. He stated the hotel was going to be a publicly owned hotel with investments from Starwood Hotels and Resorts and from other participations. Mr. Shelko said he thought they would fully explore that option to the extent that anybody could get job tax credits or the City could acquire credits on equipment installation to soften the bottom line or build up the bottom line for the benefit of the public ownership. He said that would be part of their early analysis and would report back to the Mayor and Council as quickly as possible with the information.

Council Member Scott said she had a question about subcontractors. She said there were plenty of subcontractors in this area who would like the opportunity to bid and asked if there would be such an opportunity when the construction bid listing began to allow those subcontractors the opportunity to compete.

Mr. Shelko responded affirmatively and said Scott Ellison, General Manager, Turner Construction from Phoenix was present. He said they had a number of discussions regarding bidding and subcontractors. He stated Turner Construction, as a national builder, would not come down with his own building force, so the best source for labor, materials and help on the project would be local. He said it was both Turner Construction's and Garfield Traub's position, and the City, on the other side, to encourage maximum available opportunities for local contractors, materials, and suppliers to the extent they were competitive.

Council Member Leal stated there was an agreement in the Procurement Code regarding bid listing for Women and Minority in Business who would follow the money. He said Council Member Scott's point was well taken and in order for everyone to familiarize themselves with the Ordinance, he thought they should be provided with a copy.

Mr. Shelko advised he had consulted with Liana Perez, Office of Equal Opportunity Programs and Independent Police Review Director, and a clause was included in the development agreement that read, "This transaction would embrace the City's Ordinance for Minority and Women owned Business Enterprises."

Council Member Scott stated the Mayor and Council wanted the discussion to be noted for the record.

Council Member Leal stated the Ordinance was part of the Procurement Code for all bid listings.

Vice Mayor Romero stated she agreed the project was very important for the community, the Mayor and Council and the Facilities District Board in which they were “hanging their hats on.” She said, in other words, they wanted to make sure that the City was investing in infrastructure in the hotel and convention center. She said the money approved in the December bond for the Tax Increment Financing (TIF) was very important to focus on the basics. She stated she had discussed focusing on “back to basics” in terms of investing in the infrastructure and the hotel and convention center. Vice Mayor Romero stated it was important to note that this was a partnership of the City of Tucson, the Facilities District Board, and a partnership the City of Tucson and South Tucson had with the State of Arizona through the TIF. She said, she wanted to make sure she highlighted the commitment the City of Tucson was doing to make this happen.

Vice Mayor Romero said the project was not only being supported by the TIF, it was also being supported by the City of Tucson by way of Certificates of Participation (COPs) to build a 33.2 million dollar garage. She stated the City of Tucson was putting its shoulder into a very good project for the City and saluted the Mayor and Council for making this decision. She said it should be noted that the City of Tucson was putting “its money where its mouth is” because it was an important project. She said it was equally important to continue to ensure the Gem Show was part of the community, as well as decent living wage jobs. She said she wanted to make that very clear because COPs could be used for any other projects in our City, but the commitment had been made to bring an asset into the City of Tucson.

Vice Mayor Romero stated she also wanted to make sure that the Mayor and Council did not forget the many other things under Proposition 400 approved by the voters in 1999. She said this was one phase of Rio Nuevo, and hoped by investing in this potentially revenue producing project, the Mayor and Council would not forget that the people of Tucson voted for the cultural components. She commented, based on the present economy, it was understandable they would not move in that direction as quickly as they thought possible; but the cultural assets that the origins would someday bring into the community were as important as the revenue producing projects on which the Mayor and Council were making decisions.

Vice Mayor Romero said she completely supported and endorsed the project but wanted it noted that the City of Tucson was an equal partner with the State of Arizona and the Facilities District Board which was made up of South Tucson and City of Tucson residents. She congratulated Mr. Shelko for his hard work and knew the City Manager and many others had put in numerous hours working on the project and moving it forward. She thanked them all and stated she was confident they would not put the City into a venture that was not financially feasible. Vice Mayor Romero stated she was excited and looked forward to the ground breaking.

Council Member Trasoff stated the project was a long time in coming and consisted of a lot of work and also thanked Mr. Shelko for all his efforts. She said she was impressed with the team that was assembled. She said she felt it was the best for coming to town and building an astounding hotel and edifice landmark, not just for

downtown, but for Tucson as a whole. She said Vice Mayor Romero made a good point, in that Tucson was a contributing partner in this. She stated she also appreciated the comments from Council Member Scott regarding her concerns for hiring local labor, local contractors, and employee free choice. Council Member Trasoff said these things were important to everyone philosophically. She thanked everyone for not only being gracious, but for embracing the fact that this was the way work was done. She said she thought that ethic was important to everyone as a community.

Council Member Trasoff stated, while the hotel itself was spectacular and would add income, excitement, and visitation to the community, one needed to look at the immediate as well, as construction progressed. She announced this project would produce five hundred intermittent jobs over the period of a couple years, as well as, more than four hundred full time equivalent positions. She stated that when you thought about all of the businesses that would provide service to the hotel for decades to come, the City was about to embark on the next major step towards revitalization. Revitalization not only for the City of Tucson's future, but the future of the State as well.

Mayor Walkup stated he had three things to say; hallelujah, go team go, and roll call.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

Resolution 21283 was declared passed and adopted by a roll call vote of 7 to 0.

13. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 255, dated May 12, 2009, was received into and made part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Glassman, duly seconded, to approve the appointment of Bob Storie and Gigi Rodriguez to the Metropolitan Housing Commission and Bill Mackey to the Tucson-Pima County Historical Commission.

Mayor Walkup asked if there was any discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Glassman, Uhlich, Scott, Leal, and Trasoff;
Vice Mayor Romero and Mayor Walkup

Nay: None

The motion to appoint Bob Storie and Gigi Rodriguez to the Metropolitan Housing Commission and Bill Mackey to the Tucson-Pima County Historical Commission were passed and by a roll call vote of 7 to 0.

Mayor Walkup asked if there were any personal appointments to be made.

There were no personal appointments.

14. ADJOURNMENT: 7:13 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on May 19, 2009 at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 12th day of May 2009, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR: ags:ccs